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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,630	06/27/2003	Per Martinsson	930010-2206	8456
20999	7590	03/09/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,630

Applicant(s)

MARTINSSON ET AL.

Examiner

Andrew T. Piziali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-26 and 28-47 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7-12, 19, 21-26 and 29-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 14-18, 20 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment, terminal disclaimer, and RCE filed on 1/17/2006 have been entered. The previous 102 rejections have been withdrawn in view of the amendments to claims 1 and 15. The previous double patenting rejection has been withdrawn in view of the newly filed terminal disclaimer. Applicant's amendment necessitated the new grounds of rejection presented in this Office action.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 14-18, 20 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,033,779 to Andrews.

Regarding claims 1-4, 6, 14-18, 20 and 28, Andrews discloses a multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of respective layers (see entire document including column 2, lines 37-42, column 3, lines 31-43, and the Figures). The filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

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Regarding claims 2, 4, 16 and 18, considering that the core and the respective layers are made from different material, such as a fiberglass (or thermoplastic) core and stainless steel wire layers, the core and the layers would be distinguishable from one another by their differing properties.

Regarding claims 3 and 17, the filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

Regarding claims 4, 6, 18 and 20, considering that fiberglass has a different color than stainless steel, one of the differing properties between the core and the respective layers is color.

Regarding claims 6 and 20, the core and respective layers would be visibly distinguishable from one another because one of the differing properties between the core and the respective layers is color.

Regarding claims 14 and 28, Andrews discloses that the multilayer filament may comprise some or all of a multifilament yarn (see Figures).

Regarding claim 15-18, 20 and 28, Andrews discloses that the multilayer fiber may be used to construct a fabric (column 7, lines 49-60).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-4, 6, 14-18, 20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,685,014 to Dapsalmon in view of anyone of USPN 3,800,019 to Parsey or USPN 6,653,943 to Lamb and further in view of anyone of USPN 4,651,514 to Collett, USPN 5,113,532 to Sutton, or USPN 6,033,779 to Andrews.

Regarding claims 1-4, 6, 14-18, 20 and 28, Dapsalmon discloses a filament having a core (color A) surrounded by an outer layer (color B) (see entire document including column 1, line 63 through column 2, line 26). Dapsalmon does not specifically mention the use of a plurality of respective outer layers, but Parsey and Lamb each disclose that it is known in the wear detecting filament art that a core may be surrounded by a plurality of outer layers to indicate the degree of wear (see entire documents including column 2, lines 8-29 of Parsey and column 4, lines 20-35 of Lamb). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the filament of Dapsalmon with a plurality of outer layers, because the plurality of outer layers allow for the indication of the degree of wear.

Dapsalmon does not appear to disclose if the core fiber comprises a monofilament yarn, therefore, it would have been obvious to look to the prior art for conventional core materials. Collett, Sutton, and Andrews each provide this conventional teaching showing that it is known in the cut resistant fiber art to use a core comprising a monofilament (see entire documents including column 2, lines 57-62 of Collett, column 3, lines 30-48 of Sutton, and column 3, lines 27-43 of Andrews). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the core comprise a monofilament motivated by the expectation of successfully practicing the invention of Dapsalmon and because it has been held

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to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 2-4, 6, 16-18 and 20, Dapsalmon discloses that the core and the outer layer may be distinguishable from one another by different color (column 1, line 63 through column 2, line 26).

Regarding claims 14 and 28, Dapsalmon discloses that the filament may comprise a multifilament core-spun yarn (column 3, lines 57-60).

Regarding claims 15-18, 20 and 28, Dapsalmon discloses that the filament may be used to make a fabric (paragraph bridging columns 1 and 2).

### ***Response to Arguments***

6. Applicant's arguments have been considered but are mostly moot in view of the new grounds of rejection.

The applicant asserts that the fibers of Dapsalmon are incapable of use in an industrial fabric used in papermaking and related industries because an industrial fabric constructed with the yarns of Dapsalmon would lead to "fabric creep." The examiner respectfully disagrees. Firstly, the applicant has not shown, or attempted to show, that an industrial fabric constructed with the yarns of Dapsalmon would necessarily lead to fabric creep. Secondly, assuming *arguendo* that an industrial fabric constructed with the yarns of Dapsalmon would eventually lead to fabric creep, the industrial fabric constructed with the yarns of Dapsalmon could still be used as intended at least until the onset of fabric creep. Therefore, the filaments disclosed by the applied prior art are capable of performing the intended use.

*Conclusion*

7. The following patent is cited to further show the state of the art with respect to a fiber comprising a core colored differently than the sheath:

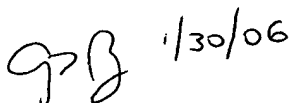
USPN 5,800,746 to Jones et al. (see entire document including column 4, lines 45-61).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

 1/30/06  
**ANDREW T. PIZIALI**  
**PATENT EXAMINER**